

C. Remarks

The claims are 28, 32, and 33, all of which are independent. Claims 29-31 have been cancelled without prejudice or disclaimer. Claim 28 has been amended to better define the present invention. Support for the amendment may be found throughout the specification and, for example, in Fig. 9. No new matter has been added. Reconsideration of the present claims is expressly requested.

Claims 28-33 stand rejected under 35 U.S.C. § 103(a) as being allegedly obvious from U.S. Patent Application Publication No. 2002/0110823 A1 (Hogan); 2005/0064436 A1 (Barrett); or 2004/0048259 A1 (Hashmi) in view of U.S. Patent Nos. 6,238,869 B1 (Kris) and 5,876,926 (Beecham). The grounds of rejection are respectfully traversed.

Prior to addressing the merits of rejection, Applicant would like to briefly discuss some of the features and advantages of the presently claimed invention. That invention, in pertinent part, is related to a testing method, which utilizes a DNA microarray containing a first set of DNA probes to identify a subject and a second set of DNA probes to test a specimen from the subject. Importantly, in this method, test information based on the second DNA probe group is generated and recorded only when there is an identification match with prerecorded information. Otherwise, a warning may be displayed. Performing the testing in this manner both enhances security and avoids unnecessary data processing.

The Examiner has acknowledged that neither Hogan, Barrett, Hashmi, nor Kris discloses generation and recording of test information only when there is a subject

identification match. The Examiner, however, alleged that Beecham contains such a teaching.

Specifically, the Examiner interpreted Beecham such that the request for new or revised biometric data is a warning and asserted that since the test information is not released if there is no match, the step of writing the test result would be inhibited. Also, the Examiner alleged that it would have been obvious to inhibit the second reading step, the generation step, and the output step if the comparison step indicated that there is no identification match, because there is no point in performing the reading, generating and outputting if the test information is not going to be released. Applicant respectfully disagrees.

Beecham, at column 18, lines 8-19, refers to the transmission of the records that have been stored in a central computer facility after the biometric data received from the caller is decrypted and compared with stored biometric data. Specifically, once a biometric data match has been found, the associated records are transmitted by the central computer facility back to the caller. If there is no biometric data match, the call is terminated or a request for new or revised biometric data is sent. This process is diagrammatically illustrated in Beecham's Fig. 9.

Applicant respectfully submits that it is readily apparent both from the flowchart in Fig. 9 and the associated description in Beecham that if any steps comparable to the presently claimed reading and the generation steps are performed, they must have taken place before biometric data is compared:

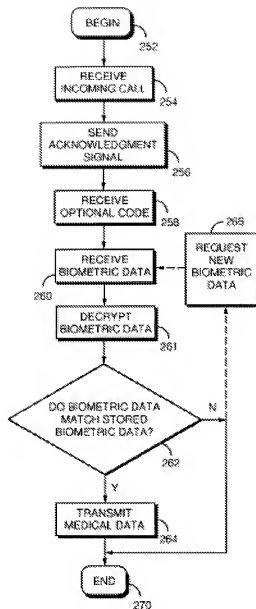


FIG. 9 260

The medical data that gets transmitted when there is a biometric data match has already been recorded in the database, i.e., the transmitted medical data is generated and recorded before biometric identification takes place. Otherwise, the process would be nonsensical, especially in the context of using a single DNA microarray that contains two sets of probes

as claimed. Thus, Beecham fails to disclose or suggest the process steps as presently claimed.

In conclusion, Applicant respectfully submits that the cited references, whether considered separately or in any combination, fail to disclose or suggest the presently claimed elements.

Wherefore, expedient allowance of the claims and passage to issue are respectfully requested.

Applicant's undersigned attorney may be reached in our New York office by telephone at (212) 218-2100. All correspondence should continue to be directed to our below listed address.

Respectfully submitted,

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